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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,343	10/03/2000	Lou Dellaverson	CE0137UM	4450

7590 03/10/2004

L Bruce Terry
Motorola Inc
Law Department
5401 North Beach Street MSE230
Fort Worth, TX 76137

EXAMINER

NGUYEN, TU X

ART UNIT PAPER NUMBER

2684

DATE MAILED: 03/10/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/530,343

Applicant(s)

DELLAVERSON ET AL.

Examiner

Tu X Nguyen

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's arguments with respect to claims 1 and 13, have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 13, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter "an external content provider" which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7-11, 13-17 and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Van den Heuvel et al. (US Patent 5,301,359).

Regarding to claims 1 and 13, Van den Heuvel et al. disclose a method of providing a service in a communication system, wherein the service is provided by a content provider to a user, the method comprising the step of:

Providing to the user as a function of price (see col.3 lines 66-67), a plurality of options related to values of at least one communications parameter to be used during the provision of service (see col.3 lines 52-67), for selection therefrom by the user, and receiving a selection of one of the plurality of options from the user (see col.4 lines 3-9).

Regarding claims 2 and 14, Van den Heuvel et al. disclose at least one communications parameter is related to the quality of service perceived by the user (see col.3 lines 52-67), "data capability" and "deviation tolerances" read on "quality of service".

Regarding claims 3 and 15, Van den Heuvel et al. disclose service is an information service (see col.3 lines 36-67).

Regarding claims 4 and 16, Van den Heuvel et al. disclose communication system is a radio communication system (see fig.2).

Regarding to claims 5 and 17, Van den Heuvel et al. disclose communication parameter includes communication route (see col.3 lines 60-61 and col.4 lines 46-65).

Regarding to claims 7 and 19, Van den Heuvel et al. disclose the function of price is determined using price information input by the content provider (206, see col.3 lines 36-50) and/or price information input by one or more further service providers forming a communication route between the content provider and the user (see col.3 line 52 through col.4 line 9).

Art Unit: 2684

Regarding to claims 8 and 20, Van den Heuvel et al. disclose the function of price is determined using stored price information data (see col.3 lines 66-67) obtained from an earlier provision of service employing the corresponding values of said at least one communications parameter (see col.3 lines 36-67).

Regarding to claims 9 and 21, Van den Heuvel et al. disclose the function of price is determined in real-time using currently applicable price information (see col.3 lines 52-67), "from time to time" reads on "real-time".

Regarding to claims 10-11 and 22-23, Van den Heuvel et al. disclose simulation means are provided by the content provider for use by the user to carry out simulation of the service that would be provided according to an intended selection by the user (see col.4 lines 3-67).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridges et al. and further in view of Chow et al. (US Patent 6,456,839).

As to claims 12 and 24, Bridges et al. fail to disclose service to the user for a limited duration.

Art Unit: 2684

Chow et al. disclose service to the user for a limited duration (see col.3 lines 1-12). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bridges with the above teaching of Chow in order to provide competitive reduced cost to a subscriber.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is (703) 305-3427. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7749.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 Customer Service Office at (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

February 23, 2004


NAY MAUNG

SUPERVISORY PATENT EXAMINER